IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.17669 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA **Sd/-**

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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PRAFUL M.PATEL & 1 - Petitioner(s)
Versus
UNION OF INDIA THR' SECRETARY & 2 - Respondent(s)

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Appearance :
MS AMRITA M THAKORE for Petitioner(s) : 1 - 2.
MR BB NAIK for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI
Date : 25/10/2005
ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)

1. This petition has been preferred by petitioner No.1, who is a Director of company named Welding Rods Private Limited. It is the say of the

petitioner that the petitioner is not involved in day-to-day affairs of the company. The case of the respondent is that the company is in arrears of Income Tax to the extent of Rs.7,95,574/-.

2. After giving notice, respondent has passed an order dated 25th August, 2003 under Section 179(1) of the Income-tax Act, 1961 (the Act) calling upon the petitioner to make the payment of the aforesaid amount. The said order (at Annexure-B) has been followed up by communication dated 23rd August, 2004 (Annexure-D) whereby the petitioner has been called upon to make payment of a total sum of Rs.13,44,228/- towards the liability of the company pertaining to Assessment Years 1994-1995 and 1996-97. It is the aforesaid order and the notice for recovery which are under challenge along with notices of attachment dated 28th March, 2005 (Annexure-G Collectively) and further notices of attachment dated 4th April, 2005 (Annexure-H). On behalf of the petitioners various submissions have been made. However, it is not necessary to enter into the facts and

contentions in detail for the simple reason that the issue stands concluded by a decision of this Court in the case of *Indubhai T. Vasa (HUF) Vs. Income Tax Officer*, [2005] 196 CTR 15 (Guj.) decided on 22nd March, 2005. Nothing has been brought on record on behalf of respondents to show in any manner whatsoever that the ratio of the said decision is not applicable to the facts of the case.

3. In the result, the order dated 25th August, 2003 under Section 179(1) of the Act (Annexure-B), demand notice dated 23rd August, 2003 (Annexure-D) and attachment notices dated under Section 226(3) of the Act dated 28th March, 2005 and 4th April, 2005 (Annexure-G (Collectively) and Annexure-H) are hereby quashed and set aside. The petition stands disposed of accordingly. Rule made absolute. There shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

Sd/-
[H.N. DEVANI, J]

*Bhavesh**